

## APPEAL NO. 000642

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. ' 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was scheduled for July 13, 1999. The issues at the CCH were not specified in the records forwarded to the Appeals Panel. A Dispute Resolution Information System (DRIS) note dated July 13, 1999, indicates that a continuance request was approved on that date and the CCH needed to be reset for a later date. According to another DRIS note, the CCH was reset for August 3, 1999, and was then again reset for August 30, 1999. A third DRIS note, dated August 24, 1999, indicated that the claimant called and said that he no longer wants to pursue his case. A fourth DRIS note, dated August 30, 1999, indicates that the CCH set for that date had been canceled.

On March 7, 2000, the hearing officer issued a Texas Workers' Compensation Commission Order for Attorney's Fees (Order), covering services for the period from June 2, 1999, through December 8, 1999, approving 20.90 hours out of 22.10 hours requested, for a total approved fee, including expenses, of \$2,482.28 out \$2,648.54 requested. The hearing officer disapproved three items, for the date of July 13, 1999, one for .20 hour for attending a CCH, one for 1.00 hour travel time for that purpose, and one for \$16.26 in travel expense for that purpose. The first two items were disapproved for "Multiple Reasons" and the third item was disapproved for "Insufficient Mileage." The appellant (attorney) appeals the first two items, asking that they be approved in full, but does not appeal the expense item. The appeal file contains no response from the carrier or the claimant.

### DECISION

The Order not being issued after a CCH, the Appeals Panel has no jurisdiction to consider an appeal of the Order.

Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE ' 152.3(e) (Rule 152.3(e)) provides that an attorney, claimant, or carrier who contests the fee ordered by a hearing officer after a CCH shall request review by the Appeals Panel pursuant to the provisions of Rule 143.3. Rule 152.3(d) states that, except as provided by Rule 152.3(e), a party contesting an attorney's fee must request a CCH no later than the 15th day after receiving the order. The attorney should have requested a CCH to address this matter. In any case, the Appeals Panel has no jurisdiction to entertain an appeal of the Order since, while it was issued by a hearing officer, it was not issued after a CCH.

We note that the hearing officer's log text states:

FEES FOR TRAVEL (TT) /APPEARING AT CCH (AP) DENIED.  
INFORMATION IN DRPS INDICATES NO APPEARANCES ON 7/13/99 FOR  
CCH; CCH CANCELLED PRIOR TO 7/13/99.

However, as noted previously, the DRIS note dated the day of that scheduled CCH indicates that a continuance was granted that day, not prior to July 13, 1999.

The Order not having been issued after a CCH, the Appeals Panel lacks jurisdiction to consider the attorney's appeal. Rule 152.3(e).

Alan C. Ernst  
Appeals Judge

CONCUR:

Robert W. Potts  
Appeals Judge

Tommy W. Lueders  
Appeals Judge